

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ORLANDO MINO HERNANDEZ, OSMEL RUBEN SOSA
NAJERA, RAFAEL BASURTO GOMEZ, JOSE LUIS
MENDEZ, MIGUEL MIRANDA, ROSALIO PEREZ,
ANGEL GEOVANI RAMOS, and PALEMON BENITO
ANTONIO individually and on behalf of others similarly
situated,

20-cv-4457 (RA)

DECLARATION OF
TOMMY TIN

Plaintiffs,

-against-

LIRA OF NEW YORK INC (D/B/A LUKE'S BAR &
GRILL), LUIGI MILITELO, TOMMY TIN, JONATHAN
MATEOS, and LUIGI LUSARDI,

Defendants.

TOMMY TIN declares under the penalty of perjury pursuant to 28 U.S.C. § 1746
as follows:

1. I am one of the defendants in this action. I have personal knowledge of
the facts contained in this Declaration, which I make in support of my motion to dismiss the
Amended Complaint.

2. I am employed as a chef by Lira of New York, Inc., another defendant,
which operates a restaurant at 1394 Third Avenue, at 80th Street, under the trade name
“Luke’s Bar & Grill.” I report to and am supervised by Luigi Militelo, another defendant, who
owns Lira of New York, Inc. As a chef, I have no responsibility for hiring or firing any other
employee. Nor do I have any responsibility for setting the wages, schedules, or working
conditions of any other employee. No employee of Lira of New York, Inc. reports to me, and I
do not supervise any other employee. I do not maintain the employment records of any other
employee.

3. According the Amended Complaint [at ¶ 39], I have been named as a

defendant in my alleged capacity “as a manager” of Lira of New York, Inc. I have never held such a title; nor have I ever functioned as a manager.

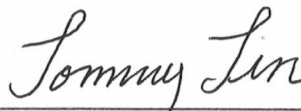
4. During the evening of February 17, 2022, I heard knocking on the front door of my home at 3311 202nd Street, Bayside, New York. I went to the door and saw a stranger. I did not open the door. The stranger said he had papers for me. Without opening the door, I told him to leave the papers in the mail box. He did.

5. In an affidavit sworn to February 21, 2022, Nikolai Rael claims to have asked me whether I was “in active military service of the United States or the State of New York.” No such question was asked and no such topic was broached during the encounter with the stranger who came to my door.

6. In his affidavit, Nikolai Rael states he came to my home at 8:09 p.m. on February 17, 2022. I am informed that, in another affidavit, Nikolai Rael claims to have served my co-worker Jonathan Mateos at the exact same time that day. Mr. Mateos lives several miles away, at 3013 92nd Street, East Elmhurst, New York. It was impossible for the two of us to have received anything from Nikolai Rael at the same time or even within any time less than 30 minutes.

I declare the foregoing is true and correct.

Executed at New York, New York, March 14, 2022.



TOMMY LIN